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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,081	04/21/2000	Henry B. Strub	IR-022-C1	6596

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EXAMINER

DUNN, MISHAWN N

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/557,081	<b>Applicant(s)</b> STRUB ET AL.	
	<b>Examiner</b> Mishawn N. Dunn	<b>Art Unit</b> 2621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7, 8, 10-14, 17-26, 29-31, 35-38, 41-49 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10-14, 17-26, 29-31, 35-38, 41-49 and 51-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5, 7, 8, 10-14, 17-26, 29-31, 35-38, 41-49, and 51-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites "storing data, including recording data." It is unclear whether the data stored is the recording data or data that is altogether different. Examiner requests that the applicant clarify the difference between data and recording data.

6. Claims 1, 2, 3, 41, 46, and 47 recite the limitation "recording data" in claim 1, lines 3 and 10; claim 2, line 2; claim 3, line 2; claim 41, line 2; claim 46, line 5; claim 47, line 5. There is insufficient antecedent basis for this limitation in the claim. If the

Art Unit: 2621

recording data recited is the same recording data as in line 2 of claim 1, then the claims should recite "the recording data" or "said recording data."

7. Claims 2-5, 7, 8, 10-14, 17-26, 29-31, 35-38, and 41 recite the limitation "a recording unit" in line 1 of claims 2-41. There is insufficient antecedent basis for this limitation in the claim. The claims should recite "the recording unit" or "said recording unit."

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-5, 7, 8, 10-14, 17-26, 29-31, 35-38, 41-49, and 51-53 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

Art Unit: 2621

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1-5, 7, 8, 10, 11, 13, 14, 17-19, 21, 26, 29, 30, 35, 36, 45-49, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296).

12. Consider claim 1. Kwoh et al, as discussed in the last Final Office Action, discloses a recording unit (fig. 2) for recording an event, comprising: a data acquisition device (pg. 2, para. 0035; fig. 2) for obtaining recording data representing the content of the event; a data storage device (pg.2, para. 0035; fig. 2) for storing data, including recording data

Kwoh et al. does not specifically disclose a control interface device for enabling a user to control operation of the recording unit, the control interface device further comprising marking means for enabling the user to specify multiple types of non-contemporaneous marks; a system controller that causes, in response to the specification of a non-contemporaneous mark by the user, the data storage device to store marking data associating the non-contemporaneous mark with recording data obtained at a marked time different from the marking time at which the non-contemporaneous mark was specified by the user, wherein the marking data defines a confidence level that represents the certainty of the user that the marked time associated with the marked recording data is a time associated with the recording data that the user desires to mark.

However, Boreczky et al. teaches a control interface device for enabling a user to control operation of the recording unit, the control interface device further comprising marking means for enabling the user to specify multiple types of non-contemporaneous marks (col. 3, line 61 - col. 4, line 9; fig. 1); a system controller that causes, in response to the specification of a non-contemporaneous mark by the user, the data storage device to store marking data associating the non-contemporaneous mark with recording data obtained at a marked time different from the marking time at which the non-contemporaneous mark was specified by the user (col. 4, line 61 – col. 5, line 55; col. 11, lines 35-51; fig. 13) wherein the marking data defines a confidence level that represents the certainty of the user that the marked time associated with the marked recording data is a time associated with the recording data that the user desires to mark (col. 6, lines 5-8, 35-54).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to mark a feature, generate metadata based on the marked feature and define a confidence level associated with the marked feature, in order to allow a user to more easily review the recorded data.

13. Consider claim 2. Boreczky et al. discloses a recording unit wherein the marking means is adapted to enable specification of a retrospective mark that is associated with recording data obtained at a marked time prior to the marking time at which the retrospective mark was specified by the user (col. 5, lines 51-55).

14. Consider claim 3. Boreczky et al. discloses a recording unit wherein the marking means is adapted to enable specification of a predictive mark that is associated with

recording data obtained at a marked time subsequent to the marking time at which the retrospective mark was specified by the user (col. 5, lines 51-55).

15. Consider claim 4. Boreczky et al. discloses a recording unit wherein the marking data defines the marking time and a duration of time, the marked time being the time different from the marking time by the amount of the duration of time (col. 6, lines 12-17; fig. 2).

16. Consider claim 5. Boreczky et al. discloses a recording unit wherein the marking data defines the marked time directly (col. 4, lines 42-46; fig. 1).

17. Consider claim 7. Boreczky et al. discloses a recording unit wherein the value of the confidence level defines a range of time relative to the marked time (col. 7, lines 35-54).

18. Consider claim 8. Boreczky et al. discloses a recording unit wherein the marking data further defines a range of time relative to the marked time (col. 4, lines 42-46).

19. Consider claim 10. Boreczky et al. discloses a recording unit wherein the marking means further comprises: means for indicating that a voice mark is to be imminently specified; and means for identifying a voice mark, the means for identifying operable in response to an indication that voice mark is to be imminently specified (col. 9, lines 27-35).

20. Consider claim 11. Kwoh et al. discloses a recording unit wherein the recording unit is portable (pg. 2, para. 0034).

21. Consider claim 13. Kwoh et al. discloses a recording unit wherein the data acquisition device further comprises a visual data acquisition device (pg. 2, para. 0035; fig. 2).



Art Unit: 2621

22. Consider claim 14. Kwoh et al. discloses a recording unit wherein the data acquisition device further comprises an audio data acquisition device (pg. 2, para. 0035; fig. 2).

23. Consider claim 17. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating a level of importance or interest of the content which the marked recording data represents (col. 5, lines 56-58).

24. Consider claim 18. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating a characteristic of the content which the marked recording data represents (col. 3, line 61 – col. 4, lin 9);

25. Consider claim 19. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating the beginning or end of activity of interest (col. 3, lines 45-60).

26. Consider claim 21. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating the user's state of mind (col. 5, lines 56-57).

27. Consider claim 26. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks identifying a person appearing in the part of the recording represented by the recording data associated with the mark (col. 7, lines 48-62).

28. Consider claim 29. Boreczky et al. discloses a recording unit further comprising: means for analyzing the recording data; and means for changing the meaning of a mark based on the analysis of the recording data (col. 7, lines 48-62).

Art Unit: 2621

29. Consider claim 30. Boreczky et al. discloses a recording unit further comprising: means for obtaining data other than recording data; and means for changing the meaning of one or more marks based on the data other than the recording data (col. 7, lines 56-62).

30. Consider claim 35. Kwoh et al. discloses a recording unit wherein the system controller causes, in response to the specification of a mark by the user, operation of the recording unit in a predetermined manner in accordance with the type of the mark (pg. 2, paras. 0032 and 0035).

31. Consider claim 36. Boreczky et al. discloses a recording unit for recording an event wherein at least one mark indicates a level of importance or interest of the content which the marked recording data represents (col. 5, lines 56-58).

32. Method claims 45-49 and 51-53 are rejected for the same reasons as discussed in corresponding apparatus claims 1-5, 7, 8, and 10 above.

33. Claims 12 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Purdy et al. (US Pat. No. 5,726,660).

34. Consider claim 12. Kwoh et al. and Boreczky et al. disclosed limitations as stated above, except a recording unit further comprising means for mounting one or more components of the recording unit on the body or the user.

However, Purdy et al. teaches a recording unit further comprising means for mounting one or more components of the recording unit on the body or the user (col. 2, lines 57-59).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to have the ability to mount the recording unit on the body of the user, so as to record with respect to the location of the recorder's body.

35. Consider claim 41. Kwoh et al. and Boreczky et al. disclosed limitations as stated above, except a recording unit wherein a data acquisition device for obtaining recording data representing the content of the event; the means for producing a mark further comprises means for producing a mark and/or supplementing or modifying an existing mark based on the value of, or an analysis of, data acquired by the recording unit; and wherein the recording unit further comprises means for acquiring non-visual, human perceptible data other than recording data; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, the non-visual, human perceptible data other than recording data.

However, Purdy et al. teaches a recording unit wherein a data acquisition device for obtaining recording data representing the content of the event; the means for producing a mark further comprises means for producing a mark and/or supplementing or modifying an existing mark based on the value of, or an analysis of, data acquired by the recording unit; and wherein the recording unit further comprises means for acquiring non-visual, human perceptible data other than recording data; and the means for

producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, the non-visual, human perceptible data other than recording data (col. 3, lines 26-36; fig. 3).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to provide a means the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, the non-visual, human perceptible data other than recording data, in order to retrieve data from a remote location and forward it to a central monitoring station.

36. Consider claim 42. Purdy et al. discloses a recording unit wherein the means for acquiring data other than recording data further comprises a physiological monitoring device; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, physiological monitoring data (col. 3, lines 26-36; fig. 3).

37. Consider claim 43. Purdy et al. discloses a recording unit wherein the means for acquiring data other than recording data further comprises a position sensing device; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, position data (col. 3, lines 26-36; fig. 3).

38. Consider claim 44. Boreczky et al. discloses a recording unit wherein the means for producing a mark and/or supplementing or modifying an existing mark produces,

Art Unit: 2621

supplements or modifies based on the proximity of the marking time to the marked time (col. 7, lines 48-62).

39. Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Suzuki (US Pat. No. 5,870,143).

40. Consider claim 20. Kwoh et al. and Boreczky et al. disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more marks indicating the recording conditions.

However, Suzuki teaches a recording unit wherein the multiple types of marks include one or more marks indicating the recording conditions (col. 5, lines 35-48).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more marks indicating the recording conditions, in order to provide the user with the respective functions of the recording unit they are using.

41. Consider claim 24. Kwoh et al. and Boreczky et al. disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more marks indicating the different recording units.

However, Suzuki teaches a recording unit wherein the multiple types of marks include one or more marks indicating the different recording units (col. 5, lines 35-48; col. 6, lines 38-65).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more marks indicating the different recording units, in order to allow the user to know what data was recording by a certain recording unit.

42. Claims 22, 23, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Chard (US Pat. No. 4,605,964).

43. Consider claim 22. Kwoh et al. and Boreczky et al. disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more privacy marks.

However, Chard teaches a recording unit wherein the multiple types of marks include one or more privacy marks (col. 5, lines 28-32; col. 6, lines 54-62).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more privacy marks, in order to prohibit access of the marks to underage viewers.

44. Consider claim 23. Chard discloses a recording unit wherein the one or more privacy marks includes a mark that indicates that the marked part of the recording is to be erased (col. 3, lines 54-60; col. 6, lines 54-62).

45. Consider claim 31. Kwoh et al. and Boreczky et al. disclose all the claimed limitations as stated above, except a recording unit further comprising one or more marking tokens for enabling a person to specify a corresponding type of mark, each

Art Unit: 2621

marking token adapted to enable physical separation of the marking token from the control interface device.

However, Chard teaches a recording unit further comprising one or more marking tokens for enabling a person to specify a corresponding type of mark, each marking token adapted to enable physical separation of the marking token from the control interface device (col. 5, lines 54-65).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to provide marking tokens for enabling a person to specify a corresponding type of mark, in order to indicate the presence of an objectionable event or sound.

46. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Abecassis (US Pat. No. 5,717,814).

47. Consider claim 25. Kwoh et al. and Boreczky et al. disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more marks identifying the person making the mark.

However, Abecassis teaches a recording unit wherein the multiple types of marks include one or more marks identifying the person making the mark (col. 12, lines 12-22).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more marks identifying the person making the mark, in order to provide user profiles.

Art Unit: 2621

48. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Cruz et al. (US Pat. No. 5,613,032).

49. Consider claim 37. Kwoh et al. and Boreczky et al. disclose all the claimed limitations as stated above, except a recording unit wherein at least one mark indicated the level of importance or interest of the content which the marked recording data represents; and the system controller causes recording data corresponding to the at least one mark to be compressed in accordance with the level of importance or interest represented by the mark.

However, Cruz et al teaches a recording unit wherein at least one mark indicated the level of importance or interest of the content which the marked recording data represents; and the system controller causes recording data corresponding to the at least one mark to be compressed in accordance with the level of importance or interest represented by the mark (col. 6, line 34-col. 7, line 37).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to incorporate the searching apparatus, in order to search the desired audio signal in multimedia data.

Consider claim 38. Cruz et al. discloses a recording unit wherein the system controller causes compression of recording data to be reduced after the predetermined amount of time (col. 6, lines 37-54).



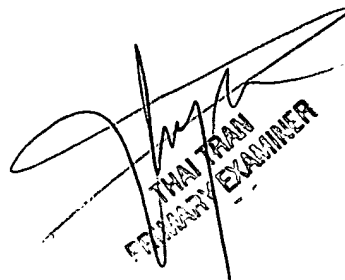
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mishawn N. Dunn whose telephone number is 571-272-7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mishawn Dunn  
April 3, 2006



THAI TRAN  
PATENT EXAMINER